



Written Testimony before the Aging Committee

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Good morning, Senator Ayala, Representative Serra and distinguished members of the Aging Committee. My name is Roderick Bremby and I am the Commissioner of the Department of Social Services. I offer the following testimony on a number of bills that impact the department.

S. B. No. 520 AN ACT CONCERNING MEDICAID LONG-TERM CARE COVERAGE FOR MARRIED COUPLES

This bill proposes allowing the spouse of an institutionalized person who is applying for Medicaid (referred to hereafter as the “community spouse”) to retain marital assets up to the maximum allowed under Federal law. Effective January 1st, 2013, this amount is \$115,920. Under current statute, community spouses of long-term care Medicaid recipients are allowed to keep one-half of the couple’s liquid assets up to the federal maximum. If the total of the assets are under the minimum allowed by federal law (\$23,184) the community spouse may keep all of the assets. The couple’s home and one car are excluded from the assessment of spousal assets.

Allowing community spouses to keep up to the maximum allowed would have a significant, negative fiscal impact. In 2010, the legislature passed Public Act 10-73, which did exactly what this bill proposes, to allow the community spouse to retain up to the federal maximum. It was reversed in the 2011 legislative session due to the projected additional costs of over \$31 million for the 2012-2013 state budget.

To demonstrate the potential fiscal impact of this change, we offer the following two examples.

1. Mr. S entered a nursing home on January 1, 2013. The spousal assets as of that date were \$80,000. They applied for Medicaid on January 1, 2013.

Under the current rules, Mrs. S is allowed to keep one-half of the spousal assets (\$40,000), plus the home and one car. The couple reduces their assets of \$80,000 to \$40,000 for Mrs. S and \$1,600 (the Medicaid asset limit) for Mr. S in February 2013 and DSS grants Medicaid eligibility for Mr. S. They spend \$11,000 of their money on Mr. S’s nursing home care – approximately one month’s worth of care. The rest of the money is spent on funeral contracts and home repairs.

Under the proposed legislation, Mrs. S would automatically be allowed to retain assets up to \$115,920 – the maximum amount allowed under federal law. Since their assets were below this

amount when Mr. S was admitted to the nursing facility, Mr. S would have been immediately eligible for Medicaid, shifting cost of nursing home care for one month to the state's Medicaid program.

2. Mr. H entered a nursing home on January 1, 2013. The spousal assets as of that date were \$150,000. They applied for Medicaid on January 7, 2013.

Under the current rules, Mrs. H is allowed to keep one-half of the spousal assets (\$75,000) plus the home and one car. The couple reduces their assets of \$150,000 to \$75,000 for Mrs. H and \$1,600 (the Medicaid asset limit) for Mr. H by May 2013, and DSS grants Medicaid eligibility for Mr. H. They spend \$35,000 on home repairs for Mrs. H and \$40,000 on Mr. H's nursing home care – approximately 3½ months of care.

Under the proposed legislation, Mrs. H would automatically be allowed to retain assets up to \$115,920 – the maximum protection amount allowed under federal law. They would only need to spend \$32,480 to be eligible (\$150,000 - \$115,920 for Mrs. H - \$1,600 for Mr. H), which they can accomplish through the home repairs. They would not need to spend any money on Mr. H's care and would therefore shift the cost of care for 3½ months of care to the state's Medicaid program.

The Department continues to maintain that the current policy, which has been in place since 1989 (with the exception of FY 2011), is fair and reasonable and supports the original intent of the 1988 Medicare Catastrophic Coverage Act, which seeks to prevent the impoverishment of spouses of those applying for Medicaid coverage for long-term care. Our current policy is also in line with most other states – there are only 13 states that allow the community spouse to retain assets up to the maximum allowed. We do not support this bill as it would require funding of over \$31 million.

H.B. No. 523 AN ACT CONCERNING THE RETURN OF A GIFT TO A PERSON IN NEED OF LONG TERM CARE SERVICES

SB 523 makes several changes to C.G.S. 17b-261a. This statute pertains to transfers of assets made by individuals to qualify for Medicaid payment of their long term-care services. Under federal Medicaid law, transfers made at least in part for purposes of qualifying for Medicaid payment of long-term care services result in a penalty period, during which Medicaid will not pay for long-term care services.

C.G.S. 17b-261a describes how the department views the return of previously transferred assets to the transferor. Presently, the statute requires the return of all transferred assets before the department adjusts the penalty period. Only full returns, and not partial returns, are currently recognized as recognition of partial returns could be used in estate planning to shift long-term care costs to the Medicaid program.

SB 523 introduces language recognizing partial asset returns. Corresponding adjustments to penalty periods are described in such a way as to discourage estate planning that shifts long-term

care costs to Medicaid. SB 523 also adds language specifying that partial returns are only counted as assets from the point of their return forward, which is consistent with advice from the federal Centers for Medicare and Medicaid Services, and specifies that transfers that are not full returns are regarded as partial returns.

SB 523 deletes subdivision (2), which counts assets fully returned as available from the time of their transfer when done as part of an estate planning strategy to shift costs to Medicaid. The removal of this subdivision should not result in any new estate planning strategies.

Finally, SB 523 adds language specifying that the conveyance of a return of assets done exclusively for purposes other than to qualify for Medicaid payment of long-term care services are not regarded as trust-like devices. The new language is consistent with the existing language and should not diminish the department's ability to discourage these estate planning strategies.

H.B. No. 5757 (RAISED) AN ACT INCREASING ELIGIBILITY FOR THE CONNECTICUT HOME-CARE PROGRAM FOR THE ELDERLY.

This proposed bill would increase the asset limit for an individual applying for the Home Care Program by 47 percent and would increase the asset limit for couples by 71 percent. This change would also set a fixed asset limit in statute, where currently the statute ties the asset limit to the community spouse protected amount, determined by the federal government, so that each year the amount changes accordingly.

Raising the asset limit would open the program to a much larger pool of applicants, which could reduce the amount of funds available to applicants with more limited resources. If the demand were to exceed the state appropriation, which is likely, then this bill would result in (1) a waiting list; (2) a reduction of services to those currently being served; or (3) additional costs to the program.

Any expansion of the eligibility pool is not recommended as it will require additional appropriations to ensure that services to those most in need are not compromised; the state's limited resources should be targeted to those most in need.

H.B. No. 5760 AN ACT INCREASING THE PERSONAL NEEDS ALLOWANCE

This proposal would increase the monthly personal needs allowance (PNA) for Medicaid clients residing in nursing facilities from \$60 to \$72.75. Current federal Medicaid law requires that a state provide a minimum PNA of \$30, one-half Connecticut's current personal needs allowance of \$60.

The department is sensitive to the needs of this population and appreciates the difference that even five dollars can make in their lives. However, increasing the amount that these individuals can keep each month for their personal needs would result in additional costs of approximately \$2.8 million annually. This department cannot support this increase in funding.

H.B. No. 5764 (RAISED) AN ACT INCREASING TEMPORARY FAMILY ASSISTANCE BENEFITS FOR GRANDPARENTS AND OTHER NONPARENT CARETAKER RELATIVES.

This bill would increase the payment standard for child only assistance units in the Temporary Family Assistance (TFA) program to the foster care rate paid by the Department of Children and Families.

While the department appreciates the goal of achieving equity in these benefits, in the past we have estimated the cost of such a change to be approximately \$33 million. Therefore, we must oppose the bill due to the significant costs associated with providing such a benefit increase.